

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MICHAEL HOLLINS,

Plaintiff,

No. C 13-5574 PJH (PR)

vs.

GREG MUNKS, et. al.,

Defendants.

**ORDER REVOKING  
PLAINTIFF'S IN FORMA  
PAUPERIS STATUS**

This civil rights case filed pro se by a detainee at Maguire Correctional Facility was dismissed and closed for failure to state a claim. Plaintiff has filed an appeal with the Ninth Circuit and the case has been referred back to this court for the limited purpose of determining whether plaintiff's in forma pauperis status should continue or whether the appeal is frivolous or taken in bad faith.

An indigent party who cannot afford the expense of pursuing an appeal may file a motion for leave to proceed in forma pauperis. Fed. R. App. P. 24(a); 28 U.S.C. § 1915(a)(1). Pursuant to Federal Rule of Appellate Procedure 24(a), "a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court." The party must attach an affidavit that (1) shows in detail "the party's inability to pay or give security for fees and costs," (2) "claims an entitlement to redress," and (3) "states the issues that the party intends to present on appeal." Fed. R. App. P. 24(a)(1). However, even if a party provides proof of indigence, "an appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). An appeal is in "good faith" where it seeks review of any issue that is "non-frivolous." *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002). An issue is "frivolous" if it has "no arguable basis in fact or law." See *O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir.

1 1990).

2 In the amended complaint, plaintiff stated that he was not provided sufficient law  
3 library access to file cases regarding circumvention of the jail grievance system, excessive  
4 force and denial of freedom of religion. Plaintiff has filed 14 cases in this court in the last  
5 few months including cases regarding all of these issues, thus plaintiff is unable to  
6 demonstrate an injury.<sup>1</sup> Plaintiff also stated the law library has a great deal of state law  
7 books, but not enough federal law books. As plaintiff made only conclusory allegations  
8 about the lack of federal law books and as he had filed many cases on a wide range of  
9 federal issues this case was dismissed. As it is clear that plaintiff's claims have no  
10 arguable basis in fact or law, this appeal is frivolous and taken in bad faith and plaintiff's in  
11 forma pauperis status is **REVOKED**. The Clerk shall forward this Order to the Ninth Circuit  
12 in case No. 14-15532.

13 **IT IS SO ORDERED.**

14 Dated: March 24, 2014.

  
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PHYLLIS J. HAMILTON  
United States District Judge

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27 <sup>1</sup> Plaintiff's case regarding the circumvention of the appeal system was dismissed for  
28 failure to state a claim (13-5085), the case regarding excessive force has been dismissed with  
leave to amend a second time (13-5083) and service was ordered on defendants for the case  
regarding freedom of religion (13-5035).